Union Calendar 425

99th Congress, 2d Session - - - - - - - - - - - House Report 99-713

THE ADMINISTRATION STRIKES BACK: RETALIATION AGAINST LORETTA CORNELIUS AND WILLIAM HUNT FOR TESTIFYING TRUTHFULLY BEFORE CONGRESS

NEWARK PUBLIC LIBRARY

AUG 13 1986

U.S. GOVT. PUBS.
DEPOSITORY 376

FORTY-FIRST REPORT

BY THE

COMMITTEE ON GOVERNMENT OPERATIONS

together with

DISSENTING AND ADDITIONAL VIEWS

JULY 24, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

62-106 O WASHINGTON : 1986

READEX FICHE

best copy available

Y1.1/8:

COMMITTEE ON GOVERNMENT OPERATIONS

JACK BROOKS, Texas, *Chairman*

DON FUQUA, Florida
JOHN CONYERS, Jr., Michigan
CARDISS COLLINS, Illinois
GLENN ENGLISH, Oklahoma
HENRY A. WAXMAN, California
TED WEISS, New York
MIKE SYNAR, Oklahoma
STEPHEN L. NEAL, North Carolina
DOUG BARNARD, Jr., Georgia
BARNEY FRANK, Massachusetts
TOM LANTOS, California
ROBERT E. WISE, Jr., West Virginia
BARBARA BOXER, California
SANDER M. LEVIN, Michigan
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
JOHN M. SPRATT, Jr., South Carolina
JOE KOLTER, Pennsylvania
BEN ERDREICH, Alabama
GERALD D. KLECZKA, Wisconsin
ALBERT G. BUSTAMANTE, Texas
MATTHEW G. MARTINEZ, California

FRANK HORTON, New York
THOMAS N. KINDNESS, Ohio
ROBERT S. WALKER, Pennsylvania
WILLIAM F. CLINGER, Jr., Pennsylvania
ALFRED A. (AL) McCANDLESS, California
LARRY E. CRAIG, Idaho
HOWARD C. NIELSON, Utah
JIM SAXTON, New Jersey
PATRICK L. SWINDALL, Georgia
THOMAS D. (TOM) DeLAY, Texas
JOSEPH J. DioGUARDI, New York
RICHARD K. ARMEY, Texas
JIM LIGHTFOOT, Iowa
JOHN R. MILLER, Washington
BEAU BOULTER, Texas
JOHN E. GROTBERG, Illinois

WILLIAM M. JONES, *General Counsel*
STEPHEN M. DANIELS, *Minority Staff Director and Counsel*

EMPLOYMENT AND HOUSING SUBCOMMITTEE

BARNEY FRANK, Massachusetts, *Chairman*

SANDER M. LEVIN, Michigan
MAJOR R. OWENS, New York
TOM LANTOS, California
MATTHEW G. MARTINEZ, California

HOWARD C. NIELSON, Utah
JIM LIGHTFOOT, Iowa
BEAU BOULTER, Texas

EX OFFICIO

JACK BROOKS, Texas

FRANK HORTON, New York

STUART E. WEISBERG, *Staff Director and Counsel*
JUNE SAXTON, *Clerk*
KEN SALAETS, *Minority Professional Staff*

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Operations, I submit herewith the committee's forty-first report to the 99th Congress. The committee's report is based on a study made by its Employment and Housing Subcommittee.

JACK BROOKS, *Chairman.*

CONTENTS

	Page
I. Introduction	1
II. Background	2
III. Findings and conclusions	4
IV. Recommendations	7
V. Discussion	7
A. Efforts to discredit, harass and oust Loretta Cornelius as Deputy Director of OPM	7
1. The timing of the initial request that Cornelius resign	8
2. The administration's position	8
3. The inspector general's investigation of Loretta Cornelius	9
a. Origin	9
b. Findings	11
c. Cornelius' misuse of Government vehicles for home-to-work travel	11
4. The decision to send the IG report to the Justice Department	13
5. The final months	14
B. Retaliation against William Hunt	15
VI. Summary	17

VIEWS

Dissenting views of Hon. Howard C. Nielson, Hon. Beau Boulter, Hon. Frank Horton, Hon. Thomas N. Kindness, Hon. Robert S. Walker, Hon. William F. Clinger, Jr., Hon. Alfred A. (Al) McCandless, Hon. Larry E. Craig, Hon. Jim Saxton, Hon. Patrick L. Swindall, Hon. Thomas D. (Tom) DeLay, Hon. Joseph J. DioGuardi, Hon. Richard K. Armey, Hon. Jim Lightfoot, and Hon. John R. Miller	18
Additional views of Hon. Barney Frank	21

CONTENTS

Page

I. Introduction 1

II. Background 3

III. Pleadings and positions 4

IV. The recommendation 7

V. Discussion 7

A. Efforts to discredit, harass and oust Loretta Cornelius as Deputy Director, [illegible] 7

1. The origins of the initial request that Cornelius resign 8

2. The decision-making process 9

3. The inspector general's investigation of Loretta Cornelius 9

a. Origins 9

b. Findings 11

c. Conclusions, lessons of Cornelius case for the Home-to-work travel 12

4. The decision to send the IG report to the Justice Department 13

5. The final months 14

B. Retaliation against William Hunt 16

VI. Summary 17

VIEWS

Dissenting views of Hon. Howard C. Nielson, Hon. Owen Bieber, Hon. Frank Horton, Hon. Thomas N. Kindness, Hon. Robert S. Walker, Hon. William F. Clinger, Jr., Hon. Alfred A. (Al) McCandless, Hon. Larry E. Craig, Hon. Jim Saxton, Hon. Patricia L. Saiki, Hon. Thomas D. (Tom) Delay, Hon. Joseph J. DioGuardi, Hon. Richard K. Armey, Hon. Dan Lungren, and Hon. Jon D. Fox 17

Additional views of Hon. Barney Frank 21

Calendar No. 425

99TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 99-713

THE ADMINISTRATION STRIKES BACK: RETALIATION AGAINST LORETTA CORNELIUS AND WILLIAM HUNT FOR TESTIFYING TRUTHFULLY BEFORE CONGRESS

JULY 24, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. BROOKS, from the Committee on Government Operations, submitted the following

FORTY-FIRST REPORT

together with

DISSENTING AND ADDITIONAL VIEWS

BASED ON A STUDY BY THE EMPLOYMENT AND HOUSING SUBCOMMITTEE

On June 24, 1986, the Committee on Government Operations approved and adopted a report entitled "The Administration Strikes Back: Retaliation Against Loretta Cornelius and William Hunt for Testifying Truthfully Before Congress." The chairman was directed to transmit a copy to the Speaker of the House.

I. INTRODUCTION

In June 1985, at the confirmation hearings of Donald Devine for a second term as Director of the Office of Personnel Management (OPM), Loretta Cornelius gave damaging testimony against Devine. Dr. Cornelius told the Senate Governmental Affairs Committee that from March 25 to April 29, while she was Acting Director of OPM, she was not notified that Devine had delegated authority to himself to continue running the agency after his term expired. She testified before the Senate that Devine spoke to her about how damaging that could be during his reconfirmation hearings and asked her to say she knew about it. She refused, and her testimony derailed the nomination of Devine for a second term as head of OPM.

62-106 O

In February 1986, after several months of alleged harassment and other efforts by White House officials and others to force her out of her position as Deputy Director of OPM, Loretta Cornelius was fired pursuant to the direction of the President.

Concerned about the possibility that a high ranking government official was penalized for telling the truth to a congressional committee, the Government Operations Subcommittee on Employment and Housing conducted an investigation into allegations of harassment and the firing of Loretta Cornelius.

During this investigation, subcommittee staff became aware of the plight of William Hunt, the former OPM Associate Director for Administration, and evidence that he too was being punished for having testified in a truthful manner before the Senate during Donald Devine's reconfirmation hearings. Hunt told the Senate Governmental Affairs Committee that while he had seen an early draft of the delegation of authority letter, Devine assured him that it was going to be discussed with Mrs. Cornelius. Hunt testified before the Senate that he did not approve the March 25 final version of the delegation letter prior to its execution by Devine, nor did he see this document until April 29. Under normal procedures an executed document should have come back to him as Associate Director for Administration for publication in the Administrative Manual, but it did not. According to Hunt, on April 30, after Loretta Cornelius had learned about Devine's delegation of authority letter, Devine asked Hunt to say that he had the letter all along and had neglected or forgotten about it. Hunt refused.

On March 19, 1986, the Employment and Housing Subcommittee held an investigative hearing into allegations of harassment and the treatment of both Loretta Cornelius and William Hunt.

Prior to the hearing, Fred F. Fielding, Counsel to the President, informed the Subcommittee that the President, on grounds of executive privilege, refused to permit White House assistants Robert Tuttle, Alfred Kingon, and Patrick Buchanan to present testimony to the Subcommittee or to provide relevant documents.

At the hearing the current Director of OPM, Constance Horner, at the direction of the Justice Department, invoked executive privilege and refused to answer any questions about conversations she had with White House aides with respect to Loretta Cornelius or about the President's decision to remove her.

The focus of the investigation and hearing and this resulting report is not on the events that led to Donald Devine's decision to request that his renomination as OPM Director be withdrawn, but rather with the issues that arose out of the testimony given by Dr. Cornelius and Mr. Hunt before the Senate and subsequent events relating to retaliation against both of them for having testified truthfully before Congress.

II. Background

On March 8, 1985, President Reagan nominated Donald Devine for a second term as OPM Director. On March 25, Donald Devine's four-year term as Director of OPM came to an end. Loretta Cornelius named Devine as her Executive Assistant while he awaited confirmation for a new term.

Unknown to Cornelius, on March 25, his last day as Director, Devine signed a "delegation of authority" letter delegating the power to run the agency to the Executive Assistant, thereby retaining control of OPM in his new job. This delegation of authority document from William Hunt, Associate Director for Administration, to Donald Devine provided that:

> All investments and delegations of authority to the Director are delegated to the Executive Assistant to the Director who may, in turn, redelegate authority at his discretion.

On March 26, Loretta Cornelius became Acting Director of OPM. The Senate confirmation hearings on Dr. Devine's renomination began on April 1.

On April 29, Cornelius discovered Devine's delegation of authority. Documents would generally come to Cornelius for her signature thru Devine with his comments and recommendations. Occasionally, when she disagreed with Devine's recommendation, she would note her disagreement and as a courtesy send the document back to Devine. She noticed that some of these documents never came back to her for signature. (Tr. 109–110.) [1] She questioned OPM General Counsel Joseph Morris about this, and the legal aspects of her relationship with Devine. Morris revealed that there had been a delegation of authority by Devine. (Tr. 111.)

Later that day Cornelius met with Devine in his office. She asked him about the delegation of authority document. Devine told her that he had intended to share it with her but had forgot. Cornelius said that she felt that he had intentionally withheld the document from her. Cornelius asked to see the delegation of authority letter. Devine said that he didn't have a copy of it, that Hunt was holding it in his safe. Devine spoke about how damaging this could be during his confirmation hearings. He asked Cornelius, "Couldn't you say you knew about it?" As Cornelius was leaving the office Devine asked her what she was going to do. Cornelius replied, "I just pray to God that no one asks me a direct question, because if they do, I would have to give a direct answer." (DH 342–343.) [2]

Later that evening, Cornelius asked one of her assistants, Lura Dillard, to get a copy of the document from Hunt the next morning.

The next morning, Tuesday, April 30, Dillard asked Hunt for the document. Hunt said that he didn't have it, that Devine had it, and that he would get it from Devine.

Hunt went to Devine's office and asked him for the document on behalf of Cornelius. Devine replied, "I guess we'll have to give it to her." Hunt expressed his shock and dismay that Devine had not told Cornelius about it earlier as he had said he was going to. Devine asked Hunt, "Couldn't you say that you had the letter all along and had neglected or forgotten about it?" Hunt said no and left Devine's office with the document. (Tr. 83.)

---

[1] Tr. refers to the printed record of the March 19, 1986 hearing.

[2] DH refers to the Hearings before the Senate Committee on Governmental Affairs on the Renomination of Donald J. Devine, 99th Cong., 1st Sess., S. Hrg. 99–220.

At about 2:30 that afternoon, Cornelius gave Devine a memo informing him that his position as her executive assistant was abolished. Within 15 to 20 minutes Cornelius received a phone call from Robert Tuttle, Director of White House Personnel. According to Cornelius, Tuttle said, "You can't fire the President's nominee." Cornelius replied, "Yes, I can. I didn't fire him. I abolished his position." Tuttle then stated, "He's willing to do anything you want." Cornelius responded, "I'm not going to be a party to this attempt to thwart the intent of Congress in requiring the director of OPM to step down when his term expires."

Later that afternoon, Devine came to Cornelius' office and asked for more time and if he could resign rather than be fired. Cornelius agreed to rip up the memo firing him if he resigned by Friday. Devine subsequently submitted a leave of absence. Cornelius balked at this, saying, "I want your resignation, not a leave of absence."

The next day, May 1, Cornelius met at the White House with Alfred Kingon, Cabinet Secretary and Deputy Assistant to the President, at his request to hear her side of things. According to Cornelius, Kingon told her, "Devine has been running up and down the halls here all day. The people upstairs want your head on a platter." [According to Cornelius, Devine, OPM General Counsel Morris and Ed Rollins were apparently upstairs in Patrick Buchanan's office at the time.] Kingon also stated that he had asked Devine whether there was any reason for Cornelius doing what she did, that Devine said Cornelius had a good reason for what she did, but Devine didn't elaborate. While Cornelius was in Kingon's office, Donald Regan phoned Kingon from West Germany about the OPM situation. Kingon told Regan: "Yes, it is what we suspected." After his phone call with Regan, Kingon told Cornelius: "You have Don Regan's blessings." Kingon told her that she should not lie about what happened.

Later that afternoon, Donald Devine announced publicly that he was resigning his position as Executive Assistant to Acting OPM Director Cornelius so as to "clarify tangled lines of authority which have emerged as a consequence of his former position."

On June 5, Loretta Cornelius and William Hunt testified truthfully and forthrightly at Devine's confirmation hearing before the Senate Governmental Affairs Committee.

The next day, June 6, facing defeat in the Senate, Donald Devine requested that his renomination as OPM Director be withdrawn.

III. Findings and Conclusions

A. While it has long been recognized that the President has the right to remove a political appointee from office for whatever reason, the President's removal of Loretta Cornelius as Deputy Director of OPM raises an apparent conflict between Congress' right and duty to protect its witnesses from retaliation and the President's authority to remove Executive Branch officers. Congress' responsibility to protect witnesses from reprisal for telling the truth to committees of Congress is a matter of grave concern. The President has an absolute and unreviewable right to remove a political appointee. But when that happens in circumstances where such re-

moval is obviously in retaliation for that individual truthfully testifying before Congress, it interferes with the ability of Congress to receive truthful information, and the President should be aware of the implications of such action.

B. Based on the evidence presented, it appears that there was an orchestrated effort to discredit, harass and oust Loretta Cornelius as Deputy Director of OPM. To the extent that there are some gaps in the evidence, the White House aides who could fill those gaps chose not to testify. Had she not testified truthfully at Donald Devine's Senate confirmation hearing, it is unclear whether there would have been an effort to remove her. In any event, the manner in which she was removed would have been handled differently had she not testified so truthfully.

C. At the hearing OPM Director Constance Horner was put under wraps. Like former Environmental Protection Agency Administrator Anne Burford who was sent before Congress under orders to invoke executive privilege and deny documents and information to Congress, Horner was left to take the heat before Congress without being permitted to tell who in the White House directed her to do what. By refusing to permit White House assistants Kingon, Tuttle, and Buchanan to testify about harassment and the firing of Loretta Cornelius, the Administration left Horner all by herself in a difficult position. Further, the Justice Department directed her to invoke executive privilege and refused to permit her to answer any questions about conversations she had with White House aides with respect to Loretta Cornelius or about the President's decision to remove her.

D. The Administration's assertion that the only motive for firing Cornelius was to allow Horner to appoint her own deputy is lacking in factual support. The notion that each of the President's Cabinet officers and agency heads has the right to select his or her own deputy is not true in practice, especially at OPM. Donald Devine did not pick Loretta Cornelius to be Deputy Director. As Joseph Morris who was then the General Counsel at OPM told the Senate during Dr. Devine's reconfirmation hearings, "Ms. Cornelius was selected by President Reagan. I was selected and appointed by Mr. Devine." Constance Horner's choice to be OPM Deputy Director, James Colvard, was reportedly rejected by the White House prior to the Subcommittee hearing. However, several weeks later, perhaps in response to the hearing, Colvard was nominated to be deputy director of OPM. Margaret Heckler while Secretary of Health and Human Services could not obtain White House approval of her choice for deputy and several other high level positions. Similarly, former Education Secretary Bell's choice of Christopher Cross to be Under Secretary was rejected by the White House. Even going back to the Carter Administration, Scott Campbell who headed OPM did not pick Jules Sugarman as his Deputy Director.

E. The impetus for the investigation of Loretta Cornelius for misusing OPM personnel and government vehicles in connection with a doctoral program at the USC Washington Public Affairs Center is suspect. Loretta Cornelius became the subject of an investigation by the Inspector General solely because of an August 2 story on the front page of the Washington Times based in large part on an anonymous letter allegedly sent but never received by the Office of

Government Ethics (OGE). This letter, copies of which were sent by the letter writer to Fred Fielding and Patrick Buchanan at the White House and which the Washington Times mysteriously obtained a copy of, contained bare allegations by an individual who had no first hand knowledge of any wrongdoing by Mrs. Cornelius. According to OGE Chief Counsel Donald Campbell, this letter did not warrant an investigation by the Inspector General, and he would not have asked the Inspector General to investigate had this story not appeared in the Washington Times. The Inspector General found that of all the allegations raised by the Washington Times article, the only one that was true involved $29 for using a government vehicle to travel from OPM to the Washington Public Affairs Center. However, during the course of this investigation, the Inspector General found that on various occasions Loretta Cornelius had used a chauffeur-driven OPM car for commuting between home and OPM headquarters, an allegation not contained in either the Washington Times article or in the anonymous letter to the OGE.

F. While the Committee does not in any way approve of or condone Dr. Cornelius' use of a government vehicle for home-to-office transportation, she appears to have been singled out for a practice, if not common, hardly restricted to her. A 1985 General Accounting Office report found that during the period January to June 1985, of the 128 government officials who were provided transportation between their residences and places of employment, 79 or 62% received unauthorized transportation. At OPM, there has been no IG investigation of former Director Devine's use of government vehicles for home-to-work transportation. An August 1984 article in the Federal Times stated that "motor vehicle logs indicate that Devine frequently was chauffeured directly between home and headquarters." An April 1985 article in the Baltimore Sun, which was reproduced on the front page of OPM's own News Digest and circulated throughout the agency, noted that Donald Devine usually arrived by chauffeured limo at his office at 7:30 a.m. Yet these articles did not trigger an investigation of Dr. Devine.

G. OPM Director Horner's decision to send the IG report on Loretta Cornelius to the Justice Department for prosecution is questionable based on the nature of the misconduct by Cornelius, and its dissimilarity with the types of cases of criminal wrongdoing usually sent to the Justice Department by OPM. In addition, while other Administration officials have been found to have misused government property for private purposes in amounts far greater than Loretta Cornelius, they did not come under any censure or discipline.

H. William Hunt, an executive and manager of distinction with 19 years of public service at the municipal, county, state, and federal levels of government, was also a victim of retaliation because he answered questions honestly and forthrightly at Donald Devine's Senate confirmation hearing. Hunt had no problems in government until after he testified against Devine. Hunt who only months earlier had received OPM's highest award for distinguished service was removed as Associate Director on October 21, 1985 by Constance Horner ostensibly because she wanted her own person in the position. According to Hunt's testimony, which was not denied

by Horner, at their meeting on October 21, Horner said that she wanted to help him get another job, suggested calling the White House Personnel Office on his behalf, but quickly added, "That is not a good idea, they were not pleased with your testimony at Don's hearing. They think that you said much more than you needed. They do not consider you a good political appointee." (Tr. 85.) Despite his outstanding ratings as an administrator, Hunt has been unable to obtain another job in the federal government. According to Hunt, friends of his in other agencies, both political appointees and career professionals, who have tried to hire him have received phone calls from White House personnel and others telling them not to hire Hunt because he was disloyal.

IV. Recommendations

The firing of Loretta Cornelius and William Hunt has sent a chilling message to agency officials appointed by the White House and career government workers alike. The message to political appointees is that they better be careful which truths they disclose to Congress. The message to career federal employees is that honesty is not always the best policy in this Administration, and whistleblowers better beware. If the President is concerned about any misperception of motive, and if this is not the message that the President truly wants to convey, we urge him to offer a comparable position in another agency to Loretta Cornelius, whose competence and performance as an administrator has never been questioned, and to William Hunt, who has earned outstanding performance ratings as a superior executive and manager during more than ten years of federal government service.

V. Discussion

A. Efforts to discredit, harass and oust Loretta Cornelius as Deputy Director of OPM

Based on the evidence presented, it appears that there was an orchestrated effort to discredit, harass, and oust Loretta Cornelius as Deputy Director of OPM. Shortly after Loretta Cornelius testified truthfully before the Senate at Donald Devine's reconfirmation hearing, an anonymous high-ranking OPM official told the Washington Post, "She is politically dead. She committed an act of high political treachery." [3]

While there are some gaps in the evidence, the White House aides who could fill those gaps chose not to testify on the pretext of executive privilege. Further, OPM Director Constance Horner was directed by the Justice Department to invoke executive privilege and to refuse to answer any questions about conversations she had with White House aides with respect to Loretta Cornelius or about the President's decision to remove her. Thus, Horner was not permitted to tell who in the White House directed her to do what.

[3] Washington Post, June 9, 1985, at A3.

1. The timing of the initial request that Cornelius resign

On June 20, Constance Horner was nominated as OPM Director by the President. The next day, Cornelius read about Horner's nomination in the newspaper, and phoned to congratulate her and to offer assistance.

A few days later Horner came to OPM and Cornelius showed her around. According to Cornelius, at their first meeting Cornelius told Horner that she was not interested in staying on at OPM, that she had agreed at her Senate confirmation hearing four years ago to stay for four years, and didn't have any interest in staying any longer. Horner asked her to stay on through her transition and Cornelius agreed. (Tr. 58, 61)

On Friday morning, August 2, there was a front page story in the Washington Times headlined "Cornelius used perks, OPM staff to get Ph.D." The article reported that, according to a letter sent to the Office of Government Ethics, Cornelius used government workers and equipment to help prepare academic work for a Ph.D. degree.

At 3:30 that Friday afternoon, the day after Horner was confirmed by the Senate but before she had been sworn in as OPM Director, Cornelius received a phone call from Horner's secretary summoning her to OMB at once to meet with Horner. At this meeting Horner asked for Cornelius' resignation effective Monday when Horner was to be sworn in, ostensibly because Horner wanted her own deputy. Cornelius who several days earlier was more than willing to leave, didn't want it to look as if the article was the reason she was leaving, refused to resign, saying, "Something has to come from the President." According to Cornelius, Horner repsonded, "I have White House approval."

It is suspicious that Horner chose the day the Washington Times article appeared to request Cornelius' immediate resignation. Assuming that Horner wanted her own deputy, would it not have made sense to keep Cornelius, who had four years of experience on the job, and had received praise for her ability and performance both as Deputy Director and Acting Director, on as Deputy Director during the transition.

On August 12, Horner stripped Cornelius of most of her responsibilities, and requested that OPM regional directors report directly to her rather than to Cornelius. Horner asked her staff to exclude Cornelius from meetings.

2. The Administration's position

According to White House spokesman Albert Brashear, the only motive for firing Loretta Cornelius was to allow Constance Horner to appoint her own deputy. "Each of [Reagan's] Cabinet officers and agency heads should have the right to select his or her own deputy." [4]

This notion is not true in practice, particularly at OPM where the concept that the selection of the deputy director is the prerogative of the director does not have a very long lineage. Donald Devine did not pick Loretta Cornelius to be Deputy Director. Had

[4] Washington Post, February 8, 1986, at A4.

Cornelius been Devine's choice to be Deputy Director of OPM, he'd still be kicking himself. Based on the following exchange between Joseph Morris, who was then General Counsel of OPM, and Senator Eagleton during Dr. Devine's renomination hearings, it is clear that President Reagan, and not Donald Devine, selected Loretta Cornelius to be Deputy Director.

> Senator EAGLETON. Ms. Cornelius was not, unlike you, Mr. Morris, selected by Dr. Devine, was she?
>
> Mr. MORRIS. Ms. Cornelius was selected by President Reagan.
>
> Senator EAGLETON. But you are a Devine protege.
>
> Mr. MORRIS. I was selected and appointed by Mr. Devine. (DH 398.)

Even going back to the Carter Administration, Scott Campbell who headed OPM did not pick Jules Sugarman as his Deputy Director.

Rep. Patricia Schroeder who chairs the Civil Service Subcommittee testified that the notion that the Director of OPM has the right to choose the Deputy Director appears to be inconsistent with congressional intent:

> Why would Congress have made the position of Deputy Director of OPM subject to confirmation by the Senate if we wanted the Deputy to be nothing other than a personal assistant to the Director? Obviously, we wanted the Deputy to be an independent official who is capable of and expected to engage in policy deliberations at OPM. (Tr. 20.)

The concept that the President simply appoints a cabinet officer's or agency head's choice to be deputy is not true in practice. Constance Horner's choice to be OPM Deputy Director, James Colvard, was reportedly rejected by the White House Personnel Office prior to the Subcommittee hearing. (Tr. 6) However, several weeks later, perhaps in response to the hearing, James Colvard's name was sent to the Senate for confirmation as Deputy Director of OPM. Margaret Heckler while Secretary of Health and Human Services could not obtain White House approval of her choice for deputy and several other high level positions. Similarly, former Education Secretary Bell's choice of Christopher Cross to be Under Secretary was rejected by the White House.

3. The Inspector General's investigation of Loretta Cornelius

a. Origin

The impetus for the investigation of Loretta Cornelius for misusing OPM personnel and government vehicles in connection with a doctoral program is suspect.

On July 24 or 25, in response to a phone call from an individual who said that he had information that a high ranking government official was engaged in wrongdoing, David Martin, Director of the Office of Government Ethics (OGE) and Donald Campbell, the Deputy Director and Chief Counsel, met with this individual. This individual had requested and was promised confidentiality. At this meeting, this individual stated that the government official was Lo-

retta Cornelius, that he himself was only the go-between, and that the allegant was an employee at OPM. He showed Martin and Campbell a letter which according to Campbell contained bold bare allegations that Cornelius misused OPM personnel and vehicles. Martin and Campbell were not given a copy of this unsigned letter. They told the go-between that if they received a signed letter with more information and if the letter writer was willing to be interviewed, then they would pursue it. (Tr. 162.)

According to Loretta Cornelius, during the week of July 29, George Nesterczuk, a former Devine aide at OPM, visited OPM and let it be known that "the heat was being turned on" and that "the story was ready to go as soon as the Senate voted."

On July 30, Campbell received a phone call from the go-between who asked whether the OGE had received the letter in the mail yet. Campbell said no. This was also the day of the Senate confirmation hearing on the nomination of Constance Horner to be Director of OPM.

During the afternoon of August 1, Campbell received a phone call from Mark Tapscott, a former Devine aide at OPM who, after he was fired by Cornelius became a reporter for the Washington Times. Tapscott asked Campbell whether he had received the letter yet about Cornelius. Campbell said, "No Comment." Tapscot replied, "I heard from [Counsel to the President, Fred] Fielding and others that you received the letter." (Tr. 163.)

Later that day, Horner was confirmed by the Senate as OPM Director.

On August 2, a front page story appeared in the Washington Times headlined, "Cornelius used perks, OPM staff to get Ph.D." This article by Ed Rogers and George Archibald, which Mark Tapscott was noted as having contributed to, reported that according to a letter sent to the Office of Government Ethics, Cornelius used government workers and equipment to help prepare academic work for a Ph.D. degree she recently received.

At about 9:15 that morning, Campbell received a phone call from Barry Shapiro of OPM's Public Affairs office who said that the Washington Times had given him an excised copy of the letter referred to in the Washington Times story. Shapiro read the letter to Campbell.

At about 10:00 a.m., Campbell received a phone call from George Archibald, the Washington Times reporter who co-authored he story. Archibald asked, "What does OGE plan to do?" Campbell answered, "We never received any letter." Archibald replied, "I should have checked with you before I wrote the story." (Tr. 163–164.)

Later that morning, Campbell received a phone call from the letter writer who was concerned because OGE had not received the letter. The letter writer advised Campbell that he had made two additional copies of the letter, and blanked out certain names in the letter, and sent one copy to Fred Fielding and the other to Pat Buchanan. (Tr. 164–165.) Campbell asked the letter writer whether he would agree to be interviewed by the OPM Inspector General. The letter writer responded, "Absolutely not. My job at OPM is in jeopardy. I have no details, no first hand knowledge about wrongdoing by Cornelius. Everybody had been talking about it."

Early that afternoon, Campbell received a phone call from the go-between who indicated "it was not turning out as planned," and "that he was backing out."

That day the OGE requested the OPM Inspector General to initiate an investigation of Loretta Cornelius for misusing OPM personnel and vehicles in connection with a doctoral program.

The OGE never did receive the letter in the mail. Several weeks later in August Campbell arranged with the letter writer to leave Campbell's car door open so that the letter writer could leave a copy of the letter in the car. It was only then that Campbell and the OGE received the letter. (Tr. 165.)

According to Campbell, the OGE was aware of the "conflict" between Devine's people and Cornelius, and based on this conflict as well as his conversations with the go-between, and the letter writer who had no first hand knowledge of any wrongdoing, and the bare assertions in the letter, he would not have asked the Inspector General to investigate. Campbell requested the investigation of Loretta Cornelius by the Inspector General because of the front page story in the Washington Times on August 2. (Tr. 165.)

b. Findings

The allegations against Dr. Cornelius contained in the August 2 Washington Times article were substantially refuted by the Inspector General's report.

The Inspector General found that of all the allegations raised by the Washington Times article, the only one that was true was that on several occasions Loretta Cornelius had been transported by government vehicle between OPM and the Washington Public Affairs Center at a total cost of $29 (Tr. 178.) [which Mrs. Cornelius has since paid]. The other allegations turned out to be untrue.

Thus, the Inspector General found no evidence to support the allegation that Dr. Cornelius had used her position as Deputy Director to cause OPM employees to produce written materials which she applied or converted to her personal use in connection with a doctoral program at the University of Southern California Washington Public Affairs Center. The Inspector General also found no evidence that Dr. Cornelius improperly rewarded employees who assisted her academic program with promotions, awards, or choice assignments. Further, the Inspector General found that Dr. Cornelius' approval of training from non-government sources for her Special Assistant was within her statutory authority as Deputy Director and did not violate any statute as alleged.

c. Cornelius' misuse of Government vehicles for home-to-work travel

During the course of the Inspector General's investigation of allegations that Loretta Cornelius misused OPM staff and vehicles in connection with personal academic work, the Inspector General found that on various occasions between October 1981 and July 1985, Loretta Cornelius had used a chauffeur-driven OPM car for commuting between home and OPM headquarters. The use of a car from home-to-office was not alleged in the Washington Times article or the anonymous letter to the OGE.

While the Committee does not in any way approve of or condone Dr. Cornelius' use of a chauffeur-driven government vehicle for home-to-office transportation,[5] she appears to have been singled out for a practice, if not common, hardly restricted to her. A 1985 General Accounting Office report found that during the period January to June 1985, 128 government officials were provided transportation between their residences and places of employment. Of these 128 government officials, 79 or 62% received unauthorized transportation.[6]

At OPM, there has been no similar Inspector General investigation of the apparent use of a chauffeur-driven government vehicle for home-to-work transportation by former OPM Director Donald Devine. An August 13, 1984 article in the Federal Times on "OPM Chauffeurs Used for Political, Personal Trips," stated that "motor vehicle logs indicate that Devine frequently was chauffeured directly between home and headquarters, about 25 miles round trip." An April 8, 1985 article in the Baltimore Sun, which was reproduced on the front page of OPM's own News Digest and circulated throughout the agency, noted that Donald Devine usually arrived by chauffeured-limo at his office at OPM at 7:30 a.m. Yet these articles did not trigger an investigation of Dr. Devine.

When asked to explain why Donald Devine who had appparently used his limo quite frequently for home-to-office travel and made kind of a show doing it was never investigated, OPM Acting Inspector General Joseph Willever stated that he was not the Inspector General in 1984 when the Federal Times article appeared, and that the 1985 Baltimore Sun article was basically a complimentary profile of Devine with one statement in it about the fact that he was regularly chauffeured from home to the office and back. (Tr. 176–177.) This hardly appears to be a meaningful distinction. A comment that someone is regularly chauffeured to and from work in a favorable article would appear to be of equal if not greater credence than one contained in an unfavorable article.

In summary, we would applaud a policy of vigorously cracking down on the misuse by government officials of chauffeur-driven government vehicles for home-to-office travel. We do not in any way condone Dr. Cornelius' use of a chauffeured government limosine for home-to-office transportation. The point is that no similar adverse action has been taken against virtually any other administration official, including Donald Devine, for misusing chauffeured-limosines for home-to-office travel. The fact that Loretta Cornelius alone has been singled out for this practice suggests that it may have been motivated more by a dislike of honest testimony than by a sincere effort to crack down on the misuse of chauffeured government vehicles for home-to-work travel.

---

[5] This Committee under the leadership of Chairman Jack Brooks has worked to limit the number of government officials who can use chauffeur-driven government vehicles for home-to-office travel. On October 29, 1985, the Committee overwhelmingly approved H.R. 3614, introduced by Chairman Brooks, which limits the number of government officials who may use chauffeured vehicles for transportation between residence and place of employment. H.R. 3614 was passed by the House on March 4, 1986.

[6] "Use of Government Motor Vehicles For The Transportation of Government Officials and the Relatives of Government Officials," GAO/GGD–85–76, September 16, 1985.

4. The decision to send the IG report to the Justice Department

On September 10, the OPM Inspector General completed his report on the Cornelius investigation and transmitted it to OPM Director Horner. On September 17, Horner met with Cornelius to discuss the IG Report. While Horner offered to provide Cornelius with a summary of the report, she refused to permit Cornelius to see the report. According to Cornelius, at this meeting Horner said that if Cornelius resigned effective immediately, Horner would not send the report to the Justice Department. (Tr. 58.) Cornelius refused to resign, saying that she wanted the report dealt with and that Horner could send it anywhere she wanted to. (TR 59.) According to Horner, however, she told Cornelius that she was "going to send [the IG report] on to the Justice Department, but the importance of this whole thing would be very much mitigated if she were a former Administration official." (TR 120.)

Whether one credits Cornelius' version that Horner threatened to send the IG report to Justice unless she resigned, or Horner's account that she was advising her of some of the benefits that would flow from being a former Administration official, Horner's decision to send the IG report to the Justice Department for criminal prosecution is questionable.

While other Administration officials have been found to have misused government property for private purposes in amounts far greater than Loretta Cornelius, they did not come under any censure or discipline. According to newspaper reports, former Attorney General William French Smith repaid $11,000 to the government for his wife's use of a government limosine for personal trips. Charles Z. Wick, director of the United States Information Agency, reimbursed the government $22,000 for his home security system and $4,000 for two telephones. Edgar Callahan, chairman of the National Credit Union Administration, was ordered by the General Accounting Office to reimburse the government for $21,250 in moving and living expenses he improperly billed the government for.

In an Administration generally willing to let officials use government limos for home-to-office travel, it is suspicious that Loretta Cornelius was singled out for a practice, if not common, hardly restricted to her.

An examination of the other cases sent by OPM to the Justice Department during the past two years reveals little similarity with Cornelius' case. These other cases involved, for example, an OPM employee who stole and tried to sell 1,278 10-ream boxes of government xerox paper, or OPM employees who falsified time records to receive monies for hours not worked.

During the Subcommittee investigation, Donald Campbell, who spent 20 years in the Criminal Division of the Justice Department and the U.S. Attorney's Office before becoming Chief Counsel at OGE, candidly stated that based on the findings in the IG report on Cornelius, it is questionable whether that report should have been sent to the Justice Department for criminal prosecution.

On October 31, Gerald McDowell, Chief of the Justice Department's public integrity section, wrote to OPM that while administrative sanctions may be appropriate, criminal prosecution was not.

McDowell stated that because of "significant confusion concerning the parameters of the proper use of an official vehicle. * * * Ms. Cornelius may reasonably have believed that use of the official vehicle for transportation relating to her academic studies was appropriate." In addition, he noted that Cornelius did not try to hide her use of the official car.

5. The final months

On November 6, Horner for the first time gave Cornelius a copy of the IG report as well as a letter of reprimand.

According to a Memorandum for the File furnished to the Subcommittee by OPM Director Horner before she became subject to a Justice Department imposed "gag order," on Friday, November 8, at 8:40 a.m. White House assistant Alfred Kingon phoned Horner and asked her to tell Cornelius that the President wanted her resignation immediately.

That same day Horner summoned Cornelius to her office, and told Cornelius that Kingon wanted her resignation and that was a presidential request. According to Cornelius, Horner said, "I should have turned the IG report over to the Washington Times two days ago," and threatened, "If I don't have your resignation by Monday, I'll turn this over to the press." (Tr. 62.) According to Horner's version of this conversation, she had to release the IG report to the press because the Washington Times had requested it under the Freedom Of Information Act, and "I called her in to warn her that I was going to have to release it and to suggest to her, frankly out of human concern, that if she were to resign now rather than down the road, there would be much less of a story about her in the papers." (Tr. 120.) Notwithstanding any personal benefits that would result from her resigning then, Cornelius refused to give up her job, saying that she served at the pleasure of President Reagan and wanted him to request her departure.

On November 13, White House director of personnel Tuttle phoned Cornelius to request her resignation. She replied that the request had to come from someone higher up. On November 15, White House assistant Kingon phoned Cornelius to request her resignation. Cornelius said that she would be ready to leave as soon as the IG report was cleared up.

On November 20, White House officials announced that Cornelius was ignoring a two-week old request that she resign. The Federal Times described it as "an unusual public campaign to discredit her" where "White House officials talked on the record about a pending personnel matter." [7]

Cornelius received several more phone calls from Kingon in late November, December, and January, requesting that she resign. She reiterated that she would not resign until the IG report was cleared up.

On February 3, Kingon phoned Cornelius and said to her, "If you resign by tomorrow, you will get a glowing letter from the President and a pat on the back and you could go out with your head

[7] Federal Times, December 2, 1985.

held high. If you don't resign by tomorrow, you will get a different kind of letter." Cornelius refused to resign.

On February 5, Cornelius received a terse letter from Robert Tuttle that "pursuant to the direction of the President . . . your appointment as deputy director of the Office of Personnel Management is terminated."

B. RETALIATION AGAINST WILLIAM HUNT

William Hunt was also a victim of retaliation because he answered questions honestly and forthrightly at Donald Devine's Senate confirmation hearing. Although he was aware that testifying truthfully before the Senate could seriously damage Donald Devine's prospects and would not be welcomed by those favoring Devine's reconfirmation, Hunt explained to the Subcommittee, "My duty as a responsible public official and my commitment to maintaining the highest standard of personal and ethical conduct, dictated I tell the truth." (Tr. 65.)

Hunt has served in government for 19 years at the municipal, county, state, and federal levels, and has consistently earned praise as a superior executive and manager. As the Associate Director for Administration at OPM, he was responsible for directing the day-to-day business management functions of the agency, and received outstanding performance ratings. For example, on Hunt's 1984 SES performance evaluation, Donald Devine wrote, "Executive has performed at the highest level possible, in a very difficult work assignment." In June 1985, upon the recommendation of both Donald Devine and Loretta Cornelius, Hunt received the Director's Award for Distinguished Service, OPM's highest award.

Hunt had no problems in government until after he testified against Devine. Subsequently his name started appearing in the Washington Times. The "Ear" column noted that Hunt was one of the people Devine's aides were most upset with, and they referred to him as a Judas Iscariot because they were collecting gold pieces for him. (Tr. 95.)

On October 21, Constance Horner removed William Hunt as Associate Director for Administration. Hunt was quite surprised because up until that point there had been no evidence of any problem in working with Mrs. Horner and he had received many positive comments from her about the quality of his work and his organizational abilities. (Tr. 84.)

According to Hunt, at the October 21 meeting with Horner, Horner said that he had done nothing wrong, that he was a competent professional who had done an excellent job overall at OPM but that she simply wanted her own person in the position. She said she didn't want to hurt him and would place him in the SES temporary assignment pool to give him an opportunity to locate employment elsewhere. At one point during their conversation, Horner told Hunt that she would like to help him, and suggested that maybe she should call the White House Personnel Office to help him get another job. On reflection she quickly added, "That is not a good idea. They were not pleased with your testimony at Don's hearing. They think you said much more than you needed. They do not consider you a good political appointee." (Tr. 85.)

Horner did not deny making this statement, saying simply that she did not remember. (Tr. 111.)

While Constance Horner had the right to remove Hunt as OPM Associate Director for Administration, a non-career SES position, and to replace him with someone of her own choice, someone who perhaps better fits her style of management, we are troubled by her testimony in this regard.

At the hearing, Mrs. Horner described Hunt's work from early August, when she took over, until October as: "it wasn't [satisfactory]"; (Tr. 112.) "[his work was] not of the sort I needed"; (Tr. 113.) "Mr. Hunt did not fit close enough to the end of the spectrum called totally satisfactory"; (Tr. 113.) and "I didn't get the quality of advice that I needed. It's as simple as that." (Tr. 113.)

When asked if she at any time had told Hunt that his work was not satisfactory, Mrs. Horner responded, "No, I didn't because I thought it would make him profoundly sad." (Tr. 112.) Nor had she placed anything in his personnel file indicating that he was not performing properly.

Noting Hunt's distinguished record in government and his consistently outstanding performance ratings, we find Mrs. Horner's characterization of his work performance to be questionable. However, even assuming that Hunt's work at OPM during this period was in fact not satisfactory, we are concerned that any agency head, least of all the Director of the Office of Personnel Management, the role model in government for personal policy, who had an employee who was not performing satisfactorily, would not communicate that fact to the employee, either orally or in writing, because it would make the employee profoundly sad.

In February 1986, Hunt received a three sentence letter from OPM that he was being dismissed from the government.

Despite Hunt's outstanding ratings as an administrator, Hunt has been unable to obtain another job in the federal government. Hunt testified under oath that friends and colleagues in other agencies, both political appointees and career professionals, who wanted to assist him feared political retribution. Some told him directly that while they would really love to have him on their staff, there was not much they felt they could do because they were afraid of political retribution because it was generally known that Hunt was being blackballed because of his involvement in the Devine hearing. Some agency officials who tried to hire or to assist Hunt mentioned to him that they had received phone calls from White House personnel and others telling them not to hire Hunt because he had been disloyal. (Tr. 88, 95, 105.)

Hunt explained to the Subcommittee that he would not disclose the names of those officials in other agencies who tried to assist him:

> I cannot subject them to potential harassment or additional retribution * * * We are here to expose a case of political retribution against those who tell the truth. As one of the victims, I cannot or do not want to contribute anything that could cause others to be similarly victimized. (Tr. 66–67.)

Similarly, to protect these individuals who told him about these threats, Hunt chose not to mention the names of White House aides and others who had made the threats to the government officials who attempted to assist Hunt. Hunt explained, "[B]y mentioning names, it would not be difficult for others to piece together who actually said these things to me." (Tr. 106.)

Hunt's desire to protect and to avoid targeting those individuals in other agencies who have tried to assist him is understandable, particularly in a climate in which the right and obligation of agency officials to tell the truth has been chilled.

VI. Summary

There is ample evidence that Loretta Cornelius and William Hunt were the unfortunate victims of retaliation for testifying truthfully at Donald Devine's reconfirmation hearing. However, even the appearance that there was retaliation against individuals who do nothing more than tell the truth, under oath, before committees of Congress, conveys a chilling message to agency officials and federal workers. This message was compounded in the instant case because Cornelius and Hunt were officials at the Office of Personnel Management, the role model in government for personnel policy, the agency to which others look to for leadership.

DISSENTING VIEWS OF HON. HOWARD C. NIELSON, HON. BEAU BOULTER, HON. FRANK HORTON, HON. THOMAS N. KINDNESS, HON. ROBERT S. WALKER, HON. WILLIAM F. CLINGER, JR., HON. ALFRED A. (AL) McCANDLESS, HON. LARRY E. CRAIG, HON. JIM SAXTON, HON. PATRICK L. SWINDALL, HON. THOMAS D. (TOM) DeLAY, HON. JOSEPH J. DioGUARDI, HON. RICHARD K. ARMEY, HON. JIM LIGHTFOOT, AND HON. JOHN R. MILLER

As Members of Congress and this Committee, we take very seriously our oversight responsibilities for the Office of Personnel Management (OPM), and by extension the entire civil service. We remain committed to doing whatever is necessary to protect Federal employees from harassment or mistreatment—no matter their rank or level, no matter the alleged reason—and when appropriate, will continue to support hearings to investigate any allegations of this nature to preserve the rights and professional integrity of the Federal work force. At the same time, however, we expect that any formal conclusion or report issued by this Committee based on such an investigation will be grounded on factual, conclusive evidence. In the cases of former OPM Deputy Director Loretta Cornelius and Associate Director William Hunt, such evidence is sorely lacking.

In the report, the majority concludes that, "based on the evidence presented" and despite admitted "gaps" in such "evidence," Cornelius was a victim of "retaliation for . . . having testified truthfully before Congress" and that there was "an orchestrated effort to discredit, harass and oust" her from her position at OPM. They also conclude that Hunt suffered a similar fate for essentially the same reason. We disagree with these conclusions.

First of all, in the case of Ms. Cornelius, the "evidence presented" amounted to nothing more than the subjective and selective memory of the former Deputy. Apparently, the majority interviewed Cornelius regarding her recollection of the chain of events that led up to her eventual dismissal from the agency. Based on her word and her word only, they then proceeded to construct a chronology that included extensive quotations from various conversations Cornelius allegedly had had with various individuals. No real effort was made prior to the hearing to check with the individuals quoted to ascertain whether or not they made the statements Cornelius attributed to them. Indeed, during the hearing, current OPM Director Constance Horner disputed under oath some of the quotations Cornelius ascribed to her, thereby undermining a number of key points raised by Cornelius to back her claims of harassment.

To the extent that there were gaps in the "evidence" collected by the majority, we submit that Ms. Cornelius was the source of such and therefore the only one who could successfully bridge them. Apparently, all of the pieces to the harassment puzzle did not conven-

iently fall into place, so the majority invited White House officials to testify, knowing full well that they would assert executive privilege and thereby provide a scapegoat at whose feet the blame for these so-called "gaps" could be laid. The fact that the White House claim was not challenged (nor that made by Ms. Horner during the hearing) suggests that the majority realized they would gain nothing by doing so.

As for "an orchestrated effort" to punish Cornelius, there is no evidence to substantiate such a claim. Nevertheless, the tenor of the report gives the impression of a high level conspiracy that became the major preoccupation of the White House. If this were so, the Administration would not have waited seven months to remove Ms. Cornelius. Director Horner requested Cornelius' resignation on August 2, 1985, and it was not until February 5, 1986 that she was finally terminated. If this was indeed an orchestrated effort to force her resignation, then it certainly was poorly orchestrated, and we would recommend that the President consider looking for a new conductor to direct future efforts of this nature.

The allegation of "retaliation" remains just that—an allegation—for which no conclusive evidence was presented, nor could be. Again, under oath, Ms. Horner testified that she asked Cornelius for her resignation because she wanted to recommend the appointment of a new Deputy Director, one more in line with her philosophy and way of doing business. This was hardly an unreasonable request and hardly constitutes retaliation. In light of all the controversy and tension that then existed at OPM, due to the events surrounding former Director Donald Devine's reconfirmation hearings and subsequent withdrawal of his name from consideration, requesting a new deputy was the sensible and logical thing to do. Cornelius apparently recognized this, stating a number of times that she had no intention or desire to stay on at the agency. Despite arguments to the contrary, it is perfectly legal and consistent with congressional intent to allow the Director of OPM or any other agency to recommend a candidate to fill the position of Deputy Director.

In Mr. Hunt's case, he laid out a rather compelling scenario during the hearing that suggested that he was indeed the victim of harassment. However, despite repeated requests by the minority Members to name the individuals at OPM and the White House he felt had harassed or "blackballed" him from future government employment, he refused to do so, explaining that he feared retribution against those who assisted him in obtaining this information (later, it was discovered that he had had no similar qualms about revealing such information to the majority staff). Mssrs. Nielson and Boulter later sent Mr. Hunt a letter, inviting him to meet with them privately to further discuss the matter. To date, they have yet to hear from Mr. Hunt. His refusal to cooperate and his continued silence has made it impossible to verify his very serious allegations, and in effect has undermined his claims of harassment.

We disagree with the other conclusions contained in this report as well. Most if not all of them were preconceived by the majority long before the investigative hearing was ever held. We believe the testimony offered at the hearing did nothing to clarify nor prove the allegations of harassment, a fact reflected in the speculative

and presumptuous language inherent throughout the findings and conclusions of this report. Even so, the most important point of all is this: a president has the undisputed right to appoint whomever he chooses to fill a political position, and by inference (to quote the report) the "absolute and unreviewable right to remove a political appointee," for whatever reason. Loretta Cornelius was a political appointee. She served at the pleasure of President Reagan and never questioned his power to dismiss her. Presidential appointees accept the fact that they may remain in office only as long as they retain the President's confidence. Their dismissals may not be questioned, and they know this when they accept their jobs. They leave office gracefully, almost without exception. Ms. Cornelius was an exception.

Ms. Cornelius prolonged the unpleasantness of her departure from OPM by insisting that only the president—personally—could fire here. Her delay in leaving prolonged her own ordeal and that of the agency. If she was harassed, she should look elsewhere for the culprit, and particularly at those who advised her to continue to drag the thing out.

HOWARD C. NIELSON.
BEAU BOULTER.
FRANK HORTON.
TOM KINDNESS.
ROBERT S. WALKER.
BILL CLINGER.
AL MCCANDLESS.
LARRY E. CRAIG.
H. JAMES SAXTON.
PAT SWINDALL.
TOM DELAY.
JOE DIOGUARDI.
DICK ARMEY.
JIM LIGHTFOOT.
JOHN MILLER.

ADDITIONAL VIEWS OF HON. BARNEY FRANK

I am puzzled by the comments in the dissenting views that fault us for inviting White House officials to testify at this hearing and not seeking to prosecute them for asserting executive privilege.

The minority's argument is the rhetorical equivalent of the psychological test question, "Who do you like better, your mother or your father?", to which there is no correct answer.

Readers of this report can doubtless imagine how purple the prose would be had we sought a contempt citation against these White House officials. To mix colors, if not metaphors, this argument is a red herring.

We asked the White House officials to testify and they refused. It seems unfair that we should be blamed for their refusal to testify or for failing to bring contempt charges against them. The fact is that neither the White House nor the minority members of the committee are able to refute the facts of the case. The White House dealt with this by refusing to testify. The minority bootstrapped this refusal by citing the White House refusal to testify as a central flaw in the report. The facts remain the facts.

BARNEY FRANK.

○